

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 UT 125

4 In the Matter of

5 QWEST CORPORATION, fka U.S. WEST
6 COMMUNICATIONS, INC.

7 Application for an Increase in Revenues

MOTION IN OPPOSITION TO QWEST'S
NOTICE OF DEPOSITION OF PHIL
NYEGAARD AND REQUEST FOR ORAL
ARGUMENT

8 On the afternoon of June 16, 2006, Qwest filed a notice of deposition of Phil Nyegaard.
9 Because response briefs are due in the docket by June 23, 2006, Qwest has noticed the deposition
10 for June 20, 2006, at 2:00 p.m. Staff opposes Qwest's request to depose Mr. Nyegaard. Because
11 of the of the very short time frames involved, Staff requests that a telephone conference and oral
12 argument be held this afternoon on Qwest's notice of deposition and Staff's opposition to the
13 deposition.

14 In brief, Qwest states that the deposition is necessary in light of Judge Petrillo's
15 memorandum dated June 7, 2006, because the Proposed Commission Decision appears to
16 consider extrinsic evidence relating to the interpretation of the Stipulation. Staff believes that the
17 Stipulation is unambiguous; therefore, extrinsic evidence to the parties' intentions and
18 understandings is irrelevant. Furthermore, Staff believes that this phase of the proceeding is
19 legal and not factual in nature. If Qwest believes that extrinsic evidence was incorrectly used in
20 the Proposed Order, its reply brief should argue that those comments should not be considered in
21 interpreting the contract and not that other extrinsic evidence is appropriate.

22 Finally, Staff notes that if the parties' subjective intentions and understandings are
23 relevant, they are not limited to the intentions and understanding of Mr. Nyegaard. As a result of
24 the legal briefing schedule, there would not be sufficient time to thoroughly analyze the extrinsic
25 evidence, even if it was relevant. Therefore, Staff believes it would be inappropriate to start
26 discovery of extrinsic evidence at this point in the schedule.

1 **CERTIFICATE OF SERVICE**

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3 I certify that on June 19, 2006, I served the foregoing upon all parties of record in this
4 proceeding by delivering a copy by electronic mail and mailing a copy by postage prepaid first
5 class mail or by hand delivery/shuttle mail to the parties accepting paper service.

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7 **ROBERT MANIFOLD - CONFIDENTIAL**
8 ATTORNEY AT LAW
9 6993 VIA VALVERDE
10 LA JOLLA CA 92037
11 manifold@pobox.com

12 **ADVANCED TELCOM INC**
13 LON E BLAKE
14 REGULATORY DIRECTOR
15 730 SECOND AVE S STE 900
16 MINNEAPOLIS MN 55402
17 lblake@atgi.net

18 **AT&T NEVADA**
19 DANIEL FOLEY
20 GENERAL ATTORNEY & ASST. GEN. COUNSEL
21 645 E PLUMB LANE B132
22 PO BOX 11010
23 RENO NV 89520
24 dan.foley@att.com

25 **ATER WYNNE LLP**
26 LISA F RACKNER – **CONFIDENTIAL**
27 ATTORNEY
28 222 SW COLUMBIA ST STE 1800
29 PORTLAND OR 97201-6618
30 lfr@aterwynne.com

31 **CITIZENS' UTILITY BOARD OF OREGON**
32 JASON EISDORFER – **CONFIDENTIAL**
33 ENERGY PROGRAM DIRECTOR
34 610 SW BROADWAY STE 308
35 PORTLAND OR 97205
36 jason@oregoncub.org

37 **CITIZENS' UTILITY BOARD OF OREGON**
38 ROBERT JENKS - **CONFIDENTIAL**
39 610 SW BROADWAY STE 308
40 PORTLAND OR 97205
41 bob@oregoncub.org

42 **DAVIS WRIGHT TREMAINE LLP**
43 MARK P TRINCHERO
44 1300 SW FIFTH AVE STE 2300
45 PORTLAND OR 97201-5682
46 marktrincher@dwt.com

INTEGRA TELECOM OF OREGON INC
CAROL WIRSBINSKI
SENIOR VICE PRESIDENT
1200 MINNESOTA CTR
7760 FRANCE AVE S
BLOOMINGTON MN 55435

MILLER NASH LLP
BROOKS HARLOW – **CONFIDENTIAL**
ATTORNEY
601 UNION ST STE 4400
SEATTLE WA 98101-2352
brooks.harlow@millernash.com

MILLER NASH LLP
DAVID L RICE
601 UNION ST / 4400 TWO UNION SQ
SEATTLE WA 98101-1367
david.rice@millernash.com

PACIFIC NORTHWEST PAYPHONE
RANDY LINDERMAN
1315 NW 185TH AVE STE 215
BEAVERTON OR 97006-1947

PERKINS COIE LLP
LAWRENCE REICHMAN – **CONFIDENTIAL**
ATTORNEY FOR QWEST
1120 NW COUCH ST - 10 FL
PORTLAND OR 97209-4128
lreichman@perkinscoie.com

QWEST CORPORATION
ALEX M DUARTE
CORPORATE COUNSEL
421 SW OAK ST STE 810
PORTLAND OR 97204
alex.duarte@qwest.com

UNITED COMMUNICATIONS INC
MICHAEL E DAUGHTRY – **CONFIDENTIAL**
VP OPERATIONS & REG CONTACT
PO BOX 1191
BEND OR 97709-1191
mike@uci.net

1 **VERIZON NORTHWEST INC**
DEAN RANDALL - **CONFIDENTIAL**
2 20575 NW VON NEUMANN DR MC OR030156
HILLSBORO OR 97006
3 dean.randall@verizon.com

WORLDCOM INC
MICHEL SINGER-NELSON
REGULATORY ATTORNEY
707 - 17TH ST STE 4200
DENVER CO 80202
michel.singer_nelson@mci.com

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Neoma Lane
Legal Secretary
Department of Justice
Regulated Utility & Business Section